

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CASE NO.: 1:24-cv-00073

MARCO VERCH,

Plaintiff,

v.

NORTH CHANNEL BREWING LLC,

Defendant,

COMPLAINT FOR COPYRIGHT INFRINGEMENT

(INJUNCTIVE RELIEF DEMANDED)

Plaintiff MARCO VERCH by and through his undersigned counsel, brings this Complaint against Defendant NORTH CHANNEL BREWING LLC for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff MARCO VERCH (“Verch”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Verch's original copyrighted Work of authorship.

2. Verch is a photographer from Cologne, Germany. He has been working as a photographer for many years and enjoys taking pictures of scenery from his travels, sporting events, food, flowers, cars, drones and more. He also takes photos for advertisements and fundraising campaigns.

3. Defendant NORTH CHANNEL BREWING LLC (“NCB”) is a brewing company and restaurant located in Manistee, Michigan. At all times relevant herein, NCB owned and

operated the Facebook page North Channel Brewing located at the URL www.facebook.com/northchannelbrewing (the “NCB Facebook Page”).

4. Verch alleges that Defendant copied Verch’s copyrighted Work from the internet in order to advertise, market and promote its business activities. NCB committed the violations alleged in connection with Defendant’s business for purposes of advertising and promoting sales to the public in the course and scope of the NCB’s business.

JURISDICTION AND VENUE

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Defendant is subject to personal jurisdiction in Michigan.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, NCB engaged in infringement in this district, NCB resides in this district, and NCB is subject to personal jurisdiction in this district.

DEFENDANT

9. North Channel Brewing LLC is a Michigan Limited Liability Company, with its principal place of business at 86 Washington Street, Suite 100, Manistee, Michigan, 49660, and can be served by serving its Registered Agent, Dawn Ford, at the same address.

THE COPYRIGHTED WORK AT ISSUE

10. In 2018, Liliya Krivorychko created the photograph entitled “Christmas-background-with-a-glass-of-mulled-wine-tangerines-ginger-cookies-Christmas-tree-and-garland,” which is shown below and referred to herein as the “Work”.



11. Verch is the owner of the Work by assignment.
12. Verch registered the Work with the Register of Copyrights on February 25, 2020, and was assigned registration number VA 2-199-685. The Certificate of Registration is attached hereto as **Exhibit 1**.
13. At all relevant times Verch was the owner of the copyrighted Work at issue in this case.
14. NCB has never been licensed to use the Work at issue in this action for any purpose.
15. On a date after the Work at issue in this action was created, but prior to the filing of this action, NCB copied the Work.

16. On or about February 4, 2021, Verch discovered the unauthorized use of his Work on the NCB Facebook Page in a post dated December 11, 2020.

17. NCB copied Verch's copyrighted Work without Verch's permission.

18. After NCB copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its beer brewing and restaurant business.

19. NCB copied and distributed Verch's copyrighted Work in connection with Defendant's business for purposes of advertising and promoting Defendant's business, and in the course and scope of advertising and selling products and services.

20. NCB committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

21. Verch never gave Defendant permission or authority to copy, distribute or display the Work at issue in this case.

22. Verch notified NCB of the allegations set forth herein on August 16, 2023, and September 5, 2023. To date, the parties have failed to resolve this matter.

COUNT I
COPYRIGHT INFRINGEMENT

23. Verch incorporates the allegations of paragraphs 1 through 22 of this Complaint as if fully set forth herein.

24. Verch owns a valid copyright in the Work at issue in this case.

25. Verch registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

26. NCB copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Verch's authorization in violation of 17 U.S.C. § 501.

27. NCB performed the acts alleged in the course and scope of its business activities.

28. Defendant's acts were willful.

29. Verch has been damaged.

30. The harm caused to Verch has been irreparable. WHEREFORE, the Plaintiff MARCO VERCH prays for judgment against the Defendant NORTH CHANNEL BREWING LLC that:

- a. NCB and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;
- b. NCB be required to pay Verch his actual damages and Defendant's profits attributable to the infringement, or, at Verch's election, statutory damages, as provided in 17 U.S.C. § 504;
- c. Verch be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Verch be awarded pre- and post-judgment interest; and
- e. Verch be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Verch hereby demands a trial by jury of all issues so triable.

DATED: January 26, 2024

Respectfully submitted,

/s/ J. Campbell Miller
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